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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,662	05/27/2005	Wataru Tomiya	38318	9842

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PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
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CLEVELAND, OH 44114-3108

EXAMINER
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MARSH, OLIVIA MARIE

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/536,662	Applicant(s) TOMIYA ET AL.	
	Examiner Olivia Marsh	Art Unit 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 22<sup>nd</sup>, 2006 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 3-5, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higuchi *et al* (U.S. 2003/0050050 A1) in view of Na *et al* (U.S. 7,031,746 B2).**

As to **claim 1**, Higuchi discloses:

A portable terminal apparatus (**mobile terminal 12**), comprising:

a network access unit (**transceiver circuit 32**) that accesses a site on a network so as to acquire data (**paragraph 54**);

a data storage unit (**memory card 58**) that stores the acquired data thereinto (**paragraph 109**);

an accessing process sequence setting unit capable of arbitrarily setting an access setting condition relating to the access to the site on the network in response to an instruction of a user, the access setting condition containing an access destination, a time instant, and a processing sequence (**paragraphs 62-63**);

an accessing process sequence storage unit that stores a series of processing sequences based upon the set access setting condition (**paragraph 65**); and

an accessing process executing unit that executes a predetermined processing sequence to perform an accessing process operation to the set site in

accordance with the access setting condition when the present time is reached to a preset time instant (**paragraph 72**), wherein the accessing process sequence setting unit sets a processing sequence in at least one of an access starting process sequence for starting an access operation to the set site at the preset time instant, a data acquiring process sequence for acquiring data from the accessed site, and a data storing process sequence for storing the acquired data into the data storage unit (**paragraph 73**).

Higuchi also discloses in a case impossible to download the data, the time information is renewed so as to download the data again, and therefore it is possible to surely perform the download (**paragraph 110**). However, Higuchi fails to disclose wherein the accessing process sequence setting unit determines whether to stop acquiring data from the accessed set site when the own apparatus accepts an interrupt request related to other use, while data is acquired from the accessed set site in the data acquiring process sequence. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Na.

In an analogous art, Na teaches the accessing process sequence setting unit determines whether to stop acquiring data from the accessed set site when the own apparatus accepts an interrupt request related to other use, while data is acquired from the accessed set site in the data acquiring process sequence (**column 1, lines 21-26; column 6, lines 1-14, lines 28-34; column 7, lines 54-67; column 8, lines 21-27**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the portable terminal and accessing process sequencing unit, disclosed by Higuchi, the accessing process sequence setting unit determines whether

to stop acquiring data from the accessed set site when the own apparatus accepts an interrupt request related to other use, while data is acquired from the accessed set site in the data acquiring process sequence, as taught by Na, to prevent the broadcast mobile services from interrupting voice calls.

As to **claim 3**, Higuchi and Na teach everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during out of service area in the case that the own apparatus is located outside the service area where communications can be performed when an access operation to the set site is commenced in the access starting process sequence (**paragraph 75**).

As to **claim 4**, Higuchi discloses:

A portable terminal apparatus (**mobile terminal 12**), comprising:

a network access unit (**transceiver circuit 32**) that accesses a site on a network so as to acquire data (**paragraph 54**);

a data storage unit (**memory card 58**) that stores the acquired data thereinto (**paragraph 109**);

an accessing process sequence setting unit capable of arbitrarily setting an access setting condition relating to the access to the site on the network in response to an instruction of a user, the access setting condition containing an access destination, a time instant, and a processing sequence (**paragraphs 62-63**);

an accessing process sequence storage unit that stores a series of processing sequences based upon the set access setting condition (**paragraph 65**); and

an accessing process executing unit that executes a predetermined processing sequence to perform an accessing process operation to the set site in accordance with the access setting condition when the present time is reached to a preset time instant (**paragraph 72**),

wherein the accessing process sequence setting unit sets a processing sequence in at least one of an access starting process sequence for starting an access operation to the set site at the preset time instant, a data acquiring process sequence for acquiring data from the accessed site, and a data storing process sequence for storing the acquired data into the data storage unit (**paragraph 73**).

Higuchi also discloses in a case impossible to download the data, the time information is renewed so as to download the data again, and therefore it is possible to surely perform the download (**paragraph 110**). However, Higuchi fails to disclose wherein the accessing process sequence setting unit determines whether to stop acquiring data from the set site when an access operation to the set site is commenced in the access starting process sequence, while the own apparatus is under use since the own apparatus executes another task related to other use. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Na.

In an analogous art, Na teaches the accessing process sequence setting unit determines whether to stop acquiring data from the set site when an access operation to the set site is commenced in the access starting process sequence, while the own apparatus is under use since the own apparatus executes another task related to other use (**column 1, lines 21-26; column 6, lines 1-14, lines 28-34; column 7, lines 54-67; column 8, lines 21-27**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the portable terminal and accessing process sequencing unit, disclosed by Higuchi, the accessing process sequence setting unit determines whether to stop acquiring data from the set site when an access operation to the set site is commenced in the access starting process sequence, while the own apparatus is under use since the own apparatus executes another task related to other use, as taught by Na, to prevent the broadcast mobile services from interrupting voice calls.

As to **claim 5**, Higuchi and Na teach everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during site access failure in the case that the accessing operation is failed when the set site is accessed in the data acquiring process sequence (**paragraph 75**).

As to **claim 7**, Higuchi and Na teach everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during data acquisition failure in the case that the own apparatus fails to acquire the data when data is acquired from the set site in the data acquiring process sequence (**paragraph 87**).

As to **claim 8**, Higuchi and Na teach everything as applied in claim 1 and Higuchi also discloses:

the accessing process sequence setting unit sets a process sequence during storage memory shortage in the case that a storage capacity of the data storage unit becomes short when the acquired data is stored in the data storing process sequence (**paragraph 76**).



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As to **claim 9**, Higuchi and Na teach everything as applied in claim 1 and Higuchi also discloses:

a retrieving unit **(46)** that retrieves the acquired data stored in the data storage unit **(paragraph 112)**.

As to **claim 10**, Higuchi and Na teach everything as applied in claim 1 and Higuchi also discloses:


the accessing process sequence setting unit is capable of setting a transfer destination to which the acquired data is transferred **(paragraph 120)**; and the portable terminal apparatus further comprises a data transferring unit **(46)** that transfers the acquired data to the set transfer destination **(paragraph 120)**.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olivia Marsh whose telephone number is 571-272-7912. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
CHARLES APPIAH  
PRIMARY EXAMINER